



**Defendant Ford Motor Company's Separate Answer to Plaintiff's Complaint**

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**JURISDICTION**

4. In response to Paragraph 4 of plaintiff's Complaint, Ford states that this paragraph calls for a legal conclusion and therefore no response is required. To the extent a response is required, Ford admits jurisdiction is proper and denies any remaining allegations in said paragraph.

**THE PARTIES**

5. In response to Paragraph 5 of plaintiff's Complaint, Ford is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and therefore denies the same.

6. In response to Paragraph 6 of plaintiff's Complaint, Ford is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and therefore denies the same.

7. In response to Paragraph 7 of plaintiff's Complaint, Ford is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and therefore denies the same.

8. In response to Paragraph 8 of plaintiff's Complaint, Ford states that the allegations in this paragraph do not relate to Ford and, therefore, no response is required. To the extent a response is required, Ford is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and therefore denies the same.

9. In response to Paragraph 9 of plaintiff's Complaint, Ford admits the allegations contained therein.

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10. In response to Paragraph 10 of plaintiff's Complaint, Ford admits the allegations contained therein.

11. In response to Paragraph 11 of plaintiff's Complaint, Ford admits the allegations contained therein.

12. In response to Paragraph 12 of plaintiff's Complaint, Ford is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and therefore denies the same.

13. In response to Paragraph 13 of plaintiff's Complaint, Ford is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and therefore denies the same.

14. In response to Paragraph 14 of plaintiff's Complaint, Ford admits the allegations contained therein.

15. In response to Paragraph 15 of plaintiff's Complaint, Ford denies the allegations contained therein.

16. In response to Paragraph 16 of plaintiff's Complaint, Ford denies the allegations contained therein.

17. In response to Paragraph 17 of plaintiff's Complaint, Ford admits plaintiff had a contusion on the front of his forehead, and otherwise denies the allegations contained therein.

18. In response to Paragraph 18 of plaintiff's Complaint, Ford denies the allegations contained therein.

19. In response to Paragraph 19 of plaintiff's Complaint, Ford denies the allegations contained therein.

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20. In response to Paragraph 20 of plaintiff's Complaint, Ford denies the allegations contained therein.

21. In response to Paragraph 21 of plaintiff's Complaint, Ford denies the allegations contained therein.

**COUNT I**

**NEGLIGENCE**

Count One of plaintiff's Complaint has been dismissed and, therefore, no response is required. To the extent a response would be required, Ford denies all allegations that would pertain to Ford in paragraphs 22 to 46 of plaintiff's Complaint.

**COUNT II**

**NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS**

47. In response to Paragraph 47 of plaintiff's Complaint, Ford incorporates its answers to those paragraphs incorporated by reference therein.

48. In response to Paragraph 48 of plaintiff's Complaint, Ford states that the allegations in this paragraph do not relate to Ford and, therefore, no response is required. To the extent a response is required, Ford is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and therefore denies the same.

49. In response to Paragraph 49 of plaintiff's Complaint, Ford denies the allegations contained therein.

50. In response to Paragraph 50 of plaintiff's Complaint, Ford states that the allegations in this paragraph do not relate to Ford and, therefore, no response is required. To the

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extent a response is required, Ford is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and therefore denies the same.

51. In response to Paragraph 51 of plaintiff's Complaint, Ford is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and therefore denies the same.

52. In response to Paragraph 52 of plaintiff's Complaint, Ford denies the allegations contained therein.

53. In response to Paragraph 53 of plaintiff's Complaint, Ford denies the allegations contained therein.

54. In response to Paragraph 54 of plaintiff's Complaint, Ford is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and therefore denies the same.

55. In response to Paragraph 55 of plaintiff's Complaint, Ford denies the allegations contained therein.

56. In response to Paragraph 56 of plaintiff's Complaint, Ford states that the allegations in this paragraph do not relate to Ford and, therefore, no response is required. To the extent a response is required, Ford is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and therefore denies the same.

57. In response to Paragraph 57 of plaintiff's Complaint, Ford denies the allegations contained therein.

58. In response to Paragraph 58 of plaintiff's Complaint, Ford states that the allegations in this paragraph do not relate to Ford and, therefore, no response is required. To the

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extent a response is required, Ford is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and therefore denies the same.

**COUNT III**

**STRICT LIABILITY**

Count Three of plaintiff's Complaint has been dismissed and, therefore, no response is required. To the extent a response would be required, Ford denies all allegations that would pertain to Ford in paragraphs 59 to 82 of plaintiff's Complaint.

**COUNT IV**

**DESIGN DEFECT**

82. In response to the second Paragraph 82 of plaintiff's Complaint, Ford incorporates its answers to those paragraphs incorporated by reference therein.

83. In response to Paragraph 83 of plaintiff's Complaint, Ford denies the allegations contained therein.

84. In response to Paragraph 84 of plaintiff's Complaint, Ford denies the allegations contained therein.

85. In response to Paragraph 85 of plaintiff's Complaint, Ford denies the allegations contained therein.

86. In response to Paragraph 86 of plaintiff's Complaint, Ford denies the allegations contained therein.

87. In response to Paragraph 87 of plaintiff's Complaint, Ford denies the allegations contained therein.

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88. In response to Paragraph 88 of plaintiff's Complaint, Ford denies the allegations contained therein.

89. In response to Paragraph 89 of plaintiff's Complaint, Ford denies the allegations contained therein.

90. In response to Paragraph 90 of plaintiff's Complaint, Ford denies the allegations contained therein.

91. In response to Paragraph 91 of plaintiff's Complaint, Ford denies the allegations contained therein.

92. In response to Paragraph 92 of plaintiff's Complaint, Ford denies the allegations contained therein.

93. In response to Paragraph 93 of plaintiff's Complaint, Ford denies the allegations contained therein.

**COUNT V**

**MANUFACTURING DEFECT**

94. In response to Paragraph 94 of plaintiff's Complaint, Ford incorporates its answers to those paragraphs incorporated by reference therein.

95. In response to Paragraph 95 of plaintiff's Complaint, Ford denies the allegations contained therein.

96. In response to Paragraph 96 of plaintiff's Complaint, Ford denies the allegations contained therein.

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**COUNT VI**

**MARKETING DEFECTS**

Count Six of plaintiff's Complaint has been dismissed and, therefore, no response is required. To the extent a response would be required, Ford denies all allegations that would pertain to Ford in paragraphs 97 to 101 of plaintiff's Complaint.

**COUNT VII**

**FAILURE TO WARN**

Count Seven of plaintiff's Complaint has been dismissed and, therefore, no response is required. To the extent a response would be required, Ford denies all allegations that would pertain to Ford in paragraphs 102 to 120 of plaintiff's Complaint.

**COUNT VIII**

**FAILURE TO INSPECT**

121. In response to Paragraph 121 of plaintiff's Complaint, Ford incorporates its answers to those paragraphs incorporated by reference therein.

122. In response to Paragraph 122 of plaintiff's Complaint, Ford states that this paragraph calls for a legal conclusion and therefore no response is required. To the extent a response is required, Ford states that it did not fail in any duty it had regarding the subject vehicle.

123. In response to Paragraph 123 of plaintiff's Complaint, Ford states that this paragraph calls for a legal conclusion and therefore no response is required. To the extent a response is required, Ford denies that it had reason to know the subject vehicle was likely to be dangerously defect and further denies it failed in any duty it had regarding the subject vehicle.

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124. In response to Paragraph 124 of plaintiff's Complaint, Ford states that the allegations in this paragraph do not relate to Ford and, therefore, no response is required. To the extent a response is required, Ford is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and therefore denies the same.

125. In response to Paragraph 125 of plaintiff's Complaint, Ford states that the allegations in this paragraph do not relate to Ford and, therefore, no response is required. To the extent a response is required, Ford is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and therefore denies the same.

126. In response to Paragraph 126 of plaintiff's Complaint, Ford is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and therefore denies the same.

**COUNT IX**

**BREACH OF IMPLIED WARRANTY OF MERCHANTABILITY**

127. In response to Paragraph 127 of plaintiff's Complaint, Ford incorporates its answers to those paragraphs incorporated by reference therein.

128. In response to Paragraph 128 of plaintiff's Complaint, Ford admits the allegations contained therein.

129. In response to Paragraph 129 of plaintiff's Complaint, Ford states that the allegations in this paragraph do not relate to Ford and, therefore, no response is required. To the extent a response is required, Ford is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and therefore denies the same.

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130. In response to Paragraph 130 of plaintiff's Complaint, Ford states that this paragraph calls for a legal conclusion and therefore no response is required. To the extent a response is required, Ford denies the allegations contained therein.

131. In response to Paragraph 131 of plaintiff's Complaint, Ford states that the allegations in this paragraph do not relate to Ford and, therefore, no response is required. To the extent a response is required, Ford is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and therefore denies the same.

132. In response to Paragraph 132 of plaintiff's Complaint, Ford denies the allegations contained therein.

133. In response to Paragraph 133 of plaintiff's Complaint, Ford states that the allegations in this paragraph do not relate to Ford and, therefore, no response is required. To the extent a response is required, Ford is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and therefore denies the same.

134. In response to Paragraph 134 of plaintiff's Complaint, Ford states that the allegations in this paragraph do not relate to Ford and, therefore, no response is required. To the extent a response is required, Ford is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and therefore denies the same

133. In response to the second Paragraph 133 of plaintiff's Complaint, Ford denies the allegations contained therein.

134. In response to the second Paragraph 134 of plaintiff's Complaint, Ford denies the allegations contained therein.

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135. In response to the Paragraph 135 of plaintiff's Complaint, Ford states that the allegations in this paragraph do not relate to Ford and, therefore, no response is required. To the extent a response is required, Ford is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and therefore denies the same.

136. In response to Paragraph 136 of plaintiff's Complaint, Ford denies the allegations contained therein.

137. In response to Paragraph 137 of plaintiff's Complaint Ford states that the allegations in this paragraph do not relate to Ford and, therefore, no response is required. To the extent a response is required, Ford is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and therefore denies the same.

138. In response to Paragraph 138 of plaintiff's Complaint, Ford states that the allegations in this paragraph do not relate to Ford and, therefore, no response is required. To the extent a response is required, Ford is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and therefore denies the same.

139. In response to Paragraph 139 of plaintiff's Complaint, Ford states that the allegations in this paragraph do not relate to Ford and, therefore, no response is required. To the extent a response is required, Ford is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and therefore denies the same.

140. In response to Paragraph 140 of plaintiff's Complaint, Ford denies the allegations contained therein.

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**COUNT X**

**INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

Count Ten of plaintiff's Complaint has been dismissed and, therefore, no response is required. To the extent a response would be required, Ford denies all allegations that would pertain to Ford in paragraphs 141 to 149 of plaintiff's Complaint.

**COUNT XI**

**VIOLATION OF MAGNUSON-MOSS WARRANTY ACT 15 USC 2301, et seq.**

Count Eleven of plaintiff's Complaint has been dismissed and, therefore, no response is required. To the extent a response would be required, Ford denies all allegations that would pertain to Ford in paragraphs 150 to 162 of plaintiff's Complaint.

**COUNT XII**

**VIOLATION OF UNIFORM COMMERCIAL CODE**

163. In response to Paragraph 163 of plaintiff's Complaint, Ford incorporates its answers to those paragraphs incorporated by reference therein.

164. In response to Paragraph 164 of plaintiff's Complaint, Ford states that this paragraph calls for a legal conclusion and therefore no response is required. To the extent a response is required, Ford states that Article 2 of the Uniform Commercial Code speaks for itself.

165. In response to Paragraph 165 of plaintiff's Complaint, Ford admits the allegations contained therein.

166. In response to Paragraph 166 of plaintiff's Complaint, Ford denies the allegations contained therein.

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167. In response to Paragraph 167 of plaintiff's Complaint, Ford states that the allegations in this paragraph do not relate to Ford and, therefore, no response is required. To the extent a response is required, Ford is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and therefore denies the same.

168. In response to Paragraph 168 of plaintiff's Complaint, Ford denies the allegations contained therein.

169. In response to Paragraph 169 of plaintiff's Complaint, states that the allegations in this paragraph do not relate to Ford and, therefore, no response is required. To the extent a response is required, Ford is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and therefore denies the same.

170. In response to Paragraph 170 of plaintiff's Complaint, Ford denies the allegations contained therein.

171. In response to Paragraph 171 of plaintiff's Complaint, Ford states that the allegations in this paragraph do not relate to Ford and, therefore, no response is required. To the extent a response is required, Ford is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and therefore denies the same.

172. In response to Paragraph 172 of plaintiff's Complaint, Ford denies the allegations contained therein.

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**COUNT XIII**

**UNFAIR BUSINESS PRACTICES**

Count Thirteen of plaintiff's Complaint has been dismissed and, therefore, no response is required. To the extent a response would be required, Ford denies all allegations that would pertain to Ford in paragraphs 173 to 184 of plaintiff's Complaint.

**COUNT XIV**

**NEGLIGENT FAILING TO WARN**

Count Fourteen of plaintiff's Complaint has been dismissed and, therefore, no response is required. To the extent a response would be required, Ford denies all allegations that would pertain to Ford in paragraphs 185 to 195 of plaintiff's Complaint.

**COUNT XV**

**FALSE ADVERTISEMENT**

Count Fifteen of plaintiff's Complaint has been dismissed and, therefore, no response is required. To the extent a response would be required, Ford denies all allegations that would pertain to Ford in paragraphs 196 to 200 of plaintiff's Complaint.

**COUNT XVI**

**VIOLATION OF UNIFORM DECEPTIVE TRACE PRACTICES ACT**

Count Sixteen of plaintiff's Complaint has been dismissed and, therefore, no response is required. To the extent a response would be required, Ford denies all allegations that would pertain to Ford in paragraphs 201 to 205 of plaintiff's Complaint.

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**COUNT XVII**

**BREACH OF EXPRESS WARRANTY**

206. In response to Paragraph 206 of plaintiff's Complaint, Ford incorporates its answers to those paragraphs incorporated by reference therein.

207. In response to Paragraph 207 of plaintiff's Complaint, Ford states that the allegations in this paragraph do not relate to Ford and, therefore, no response is required. To the extent a response is required, Ford is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and therefore denies the same.

208. In response to Paragraph 208 of plaintiff's Complaint, Ford denies the allegations contained therein.

209. In response to Paragraph 209 of plaintiff's Complaint, Ford states that the allegations in this paragraph do not relate to Ford and, therefore, no response is required. To the extent a response is required, Ford is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and therefore denies the same.

210. In response to Paragraph 210 of plaintiff's Complaint, Ford denies the allegations contained therein.

211. In response to Paragraph 211 of plaintiff's Complaint, Ford states that the allegations in this paragraph do not relate to Ford and, therefore, no response is required. To the extent a response is required, Ford is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and therefore denies the same.

212. In response to Paragraph 212 of plaintiff's Complaint, Ford denies the allegations contained therein.

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**COUNT XVIII**

**COMPENSATORY DAMAGES**

Count Eighteen of plaintiff's Complaint has been dismissed and, therefore, no response is required. To the extent a response would be required, Ford denies all allegations that would pertain to Ford in paragraphs 213 to 216 of plaintiff's Complaint.

**COUNT IX**

**PUNITIVE DAMAGES**

Count Nineteen of plaintiff's Complaint has been dismissed and, therefore, no response is required. To the extent a response would be required, Ford denies all allegations that would pertain to Ford in paragraphs 217 to 218 of plaintiff's Complaint.

**AFFIRMATIVE DEFENSES**

1. Ford alleges that plaintiff's Complaint, in whole or in part, fails to state a claim upon which relief can be granted.

2. Ford alleges that the damages alleged in plaintiff's Complaint were caused by the negligence or fault of plaintiff and/or of other persons or entities over whom Ford has or had no control, or right of control, and for whom Ford is not responsible for.

3. Ford alleges that, at the time the vehicle described in plaintiff's Complaint, and all relevant components thereof, left the hands of Ford, it was fit and proper for the use for which it was designed and intended.

4. Ford alleges that the vehicle described in plaintiff's Complaint, and all relevant components thereof, complied with the state of the art and/or the state of the industry for vehicles existing at the time that it was manufactured and distributed.

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5. Ford alleges that the damages or other relief claimed in plaintiff's Complaint was the result of superseding, intervening causes and/or events unforeseeable to Ford.

6. Ford alleges that the damages, or other relief claimed in plaintiff's Complaint, were caused in whole or in part, by the abuse, misuse and/or alteration of the subject vehicle.

7. Ford alleges that plaintiff failed to give appropriate notice of any breach of warranty claims.

8. Ford alleges that plaintiff failed to mitigate his damages, if any.

9. Ford alleges plaintiff's claims are barred, in whole or in part, due to the doctrine of spoliation to the extent the vehicle and its component parts were not retained in their immediate post-accident condition.

10. Ford alleges plaintiff's claims are barred, in whole or in part, by the applicable statute of limitations.

11. Ford alleges that this Court lacks subject matter jurisdiction.

12. Ford alleges that the vehicle described in plaintiff's Complaint, and all relevant components thereof, were manufactured in compliance and conformance with applicable state and/or federal statutes, regulations, requirements and standards.

13. Ford alleges that it has completely performed and fulfilled all of its obligations under and pursuant to the only warranty of any kind, either express or implied, written or oral, which it or anyone acting on its behalf has made with respect to the subject vehicle alleged in plaintiff's Complaint or any of its component parts.

14. Ford reserves the right to assert additional affirmative defenses as discovery in this suit progresses.

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**JURY DEMAND**

Ford hereby demands a jury trial for all issues so triable.

**WHEREFORE**, Ford prays for judgment dismissing plaintiff's Complaint with prejudice, awarding its costs and disbursements herein, and awarding it such other and further relief as this Court deems just and equitable.

BOWMAN AND BROOKE LLP

By: s/ David R. Kelly

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Admitted *pro hac vice*

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Dated: February 4, 2013

and

Bruce P. Bennett, Esq.

VI Bar #512

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 4th day of February, 2013, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send a notification of such filing (NEF) to the following:

Joseph Caines Esq.  
P.O. Box 307007  
St. Thomas, VI 00802

s/ David R. Kelly

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David R. Kelly, Esq.

BOWMAN AND BROOKE LLP

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